

RECORD OF PROCEEDINGS

Minutes of *COUNCIL*

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 10148

Held *October 18,*20 *10*

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, October 18, 2010, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Pastor John Bradosky and the Pledge of Allegiance to the Flag, with Mayor Mark Kingseed presiding. Councilmembers and City Staff present were as follows:

Deputy-Mayor	Doug Cline
Councilmembers	John Beals
	Paul Gresham
	James Singer
	Belinda Kenley
	Brooks Compton

Clerk of Council Debra James
 City Manager Gregory Horn
 Finance Director Steven Hinshaw
 Public Works Director Robert James
 City Engineer Douglas Spitler
 Assistant City Engineer John Sliemers
 Assistant to the City Manager Jennifer Wilder
 City Planner Steve Feverston
 Economic Development Administrator Nathan Cahall
 Municipal Attorney Scott Liberman

The minutes of the following meetings had been distributed prior to this meeting:

Council Meeting	September 20, 2010.
Work Session Meetings	September 20, 2010.
	October 4, 2010.
	October 11, 2010.

After Mrs. Kenley asked to be excused from the vote on the minutes of October 4 as she was absent; Dr. Gresham noted that he was absent on October 4 also. Mr. Beals moved that the minutes of the foregoing meetings, as distributed, be approved. Dr. Gresham seconded the motion. The motion passed with seven ayes.

Mrs. James, Clerk of Council, announced that she had received notification of the resignation of John Spoor from the Sister City Committee. She also noted the receipt of an appeal of a decision of the Planning Commission filed by Tom Bednarczyk regarding the denial of a variance application for an extension of time for a business located at 881 South Main Street.

Mayor Kingseed administered the Oath of Office to Sherry Leighty and Tom Wheeler as members of the Centerville City Beautiful Commission. He thanked them for their service to the community and noted that city government relies heavily on volunteer boards and commissions.

Mayor Kingseed welcomed Cianan Moore, a Centerville eighth grader at Watts Middle School. He is collecting items for Sgt. Zachary McDonald, a Centerville graduate who is in Afghanistan. Cianan Moore is hosting a whiffle ball tournament to raise money

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and get donations. Mayor Kingseed presented a Certificate of Recognition in acknowledgment of this commendable project.

Mayor Kingseed honored Mr. Mark Yandrick, GIS Technician for the City of Centerville. Mr. Yandrick won second place recognition for his Yankee Trace Storm Sewer Runoff Map at a recent Ohio Geographic Information Systems Conference in Columbus. Mayor Kingseed presented the award and noted that technology allows the City to serve the citizens in efficient new ways.

Emily Greer and Colette Myers introduced Girl Scouts from Troop #30065 at Driscoll Elementary who had completed the requirements for the Bronze Award. To earn the distinction the girls collected over nine hundred items and held a baby shower for expectant mothers at the St. Vincent Hotel, a homeless shelter in Dayton. Mayor Kingseed presented certificates to the following Girl Scouts:

Jessie Deaton	Gillian Hodges	Sarah Meyer
Nora Fullenkamp	Erika Kerr	McKenna Myers
Darcy Greer	Taylor Maxwell	Riley Myszka (absent)

Mrs. Marilyn Hoback and Mrs. Suzie Holloway showed pictures and reported highlights of the Sister City trip to Bad Zwischenahn, Germany, and the Scandinavian cruise that followed. Students from Germany will be here next March with the adults coming in 2013. The committee is exploring the possibility of an additional Sister City in Quebec, Canada. The group has openings for new members.

During the Mayor's Report, Mayor Kingseed noted the following:

He extended condolences to the family of Moraine Mayor Bob Rosencrans, who died in a traffic accident last week.

He invited everyone to attend the dedication of the new Firefighter/EMS Memorial, on October 31 at 1:30 p.m. at Stubbs Park.

He encouraged people to vote in the November 2 election. Voting is currently available at the Board of Elections for those for whom casting a ballot on November 2 is inconvenient.

In the City Manager's Report, Mr. Horn announced that Captain Bruce Robertson is being appointed as Centerville's fifth police chief effective with the retirement of Police Chief Stephen Walker this coming January. Captain Robertson has been a member of the Centerville Police Department since 1978 and has excellent qualifications for the position.

Mrs. Gopman outlined code violations and their resolutions for the month of September, 2010, as well as the community calendar for the coming month. She covered items such as the Farmers Market, Beggars' Night, Veterans' Day, Hometown Holiday activities, Arts Commission activities, Yankee Trace happenings and leaf collection. She noted that waste bills may now be paid online.

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In Standing Committee Reports, Mr. Singer announced that a Stormwater Drainage Task Force meeting will convene at 7:00 p.m. on Thursday, October 28, in the Law Library. Mrs. Kenley thanked the Arts Commission members, especially Kera Estep, for work on the Digital Photography Contest in partnership with the Centerville Library. Mr. Compton noted that the Committee to Study Township Relations has been meeting regularly. Recently Mr. Mike Barlow and Mr. Tom Zobrist, Chief Fiscal Officer from Washington Township, met with the committee recently. Mr. Compton thanked Mr. Zobrist and Mr. Barlow for their preparedness.

Mayor Kingseed explained that the Consent Agenda contains administrative matters that have been discussed during Council Work Sessions. Approval of these routine issues is as a group with one motion being made. Councilmembers read into the record the titles of the Consent Agenda items before Mr. Singer moved that the following legislation be passed:

- A. Ordinance Number 13-10, An Ordinance Amending Sections 1420.01, 1420.02, 1422.01, 1422.02, 1422.03, 1424.01, 1424.02, And 1424.03, Regarding Adoption Of Standardized Building And Housing Codes, And Adding Sections 1426.01 And 1426.99 Regarding The Establishment Of Requirements For Issuance Of A Demolition Permit, be set for Public Hearing on November 15, 2010.
- B. Ordinance Number 14-10, An Ordinance Amending Sections 1440.99, 1442.01, 1442.02, 1442.03, 1444.01, 1444.02, 1444.03, 1444.04, And 1444.05 Of The Centerville Municipal Code Regarding Building Administration, Plumbing Permits, Fees And Registration, be set for Public Hearing on November 15, 2010.
- C. Resolution Number 36-10, A Resolution Accepting The Amounts And Rates As Determined By The Budget Commission And Authorizing The Necessary Tax Levies And Certifying Them To The County Auditor.
- D. Resolution Number 37-10, A Resolution Authorizing The City Manager To Take All Steps Necessary To Execute And File An Application With The State Of Ohio To Obtain A Determination From The Ohio Department Of Taxation That Certain Real Property Located In The City And Commonly Known As Bethany Lutheran Village Is Partially Exempt From Ohio Real Property Taxes And To Authorize Graceworks To Act As Agent.
- E. Resolution Number 38-10, A Resolution Authorizing The City Manager To Enter Into A Lease Agreement Between The City Of Centerville And The Centerville-Washington Township Historical Society.
- F. Resolution Number 39-10, A Resolution Authorizing The City Manager Or His Designee, On Behalf Of The City Of Centerville, To Submit An Application For New Freedom Grant Funding From The Federal Transit Administration To The Miami Valley Regional Planning Commission For

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Public Infrastructure Improvements Benefiting Americans With Disabilities.
(RTA Bus Stop Accessibility Project)

- G. Resolution Number 40-10, A Resolution Authorizing Staff To Submit An Application For Federal SAFETEA-LU Funds Through The Miami Valley Regional Planning Commission. (Yankee Street Improvements-Phase 2 Project)
- H. Resolution 41-10, A Resolution Authorizing The City Manager On Behalf Of The City Of Centerville To Enter Into An Agreement For Funding For The Relocation And Installation Of Accessible Pedestrian Signals Through The Greater Dayton Regional Transit Authority's JARC-New Freedom MVRPC Grants Program.
- I. Resolution 42-10, A Resolution Authorizing The City Manager On Behalf Of The City Of Centerville To Enter Into An Agreement For Funding For The Completion Of A Sidewalk Section Along Loop Road Through The Greater Dayton Regional Transit Authority's JARC-New Freedom MVRPC Grants Program.
- J. Resolution 43-10, A Resolution Accepting The Bid Submitted By America's Decorative Concrete, LLC, Of Greenville, Ohio, For The Loop Road Sidewalk Infill Project (Project SS-3) And Authorizing The City Manager To Enter Into A Contract In Connection Therewith.

Mr. Cline seconded the motion. The motion passed with seven ayes.

PUBLIC HEARING FOR THE GARDENLAND APPEAL OF PLANNING COMMISSION DECISION - EXTENSION OF TIME

Mr. Feverston gave the report of the Planning Commission regarding the appeal for Gardenland, a temporary garden center at 881 S. Main Street that fronts on W. Spring Valley Road. The zoning is B-2 which is general business. The variance request was for an extension of time so that the business could continue into the fall market with items such as mums and pumpkins. For a garden center, the UDO permits a 3 month maximum in any half of the calendar year, evenly divided. The request was for a four month period in the second half of the 2010 calendar year. Mr. Bednarczyk argued that he was only open two months in the first half and would like to add the additional month to the second half, maintaining a six month window where the business would be open. Staff and the Planning Commission unanimously recommended denial of the petition because the situation did not exhibit a degree of practical difficulty that would warrant an extension of time. Planning Commission has asked staff to reevaluate the code as it applies to temporary garden centers.

Mr. Tom Bednarczyk, 1005 Steven Circle, New Carlisle, Ohio, stated that it is a hardship to cut sales so early as the season extends well into the fall. He stated that the hot weather in the summer created a hardship and the additional two weeks until November 1 would benefit his family. He asked for the UDO to be changed to simply state a six month

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period of time. In response to Mayor Kingseed's question concerning his experience in other communities, Mr. Bednarczyk stated that the rules are generally a flat number of days.

Mr. Charles Prentice, 159 Sailboat Run, is a part-time employee of The Gardenland. He said that the community enjoys the color of the pumpkins and mums and values the atmosphere the business brings to the site.

Mr. Singer stated that the applicant made good points, especially when the ordinance is under review. He did not feel the additional two weeks was significant.

Mr. Compton asked about the initial agreement with the landlord. Mr. Bednarczyk said that the lease goes from April to October.

Mr. Beals asked about the three months in each half of the year. Mr. Feverston stated that the current regulations were set to create a natural division for spring planting flowers and holiday decorations. The code does not stipulate that there must be a separation in time, so the garden center opted to combine the two.

Discussion followed to clarify who inspects temporary garden centers, whether the six month period includes set up and tear down, how other communities regulate garden centers, whether other garden centers in town have difficulty with the current regulations and the exact wording of the ordinance.

Mr. Horn stated that Mr. Bednarczyk started setting up in mid April and now is in his seventh month, having added fall items so that he well exceeded the six month window provided in the ordinance which is the maximum window for a temporary garden center.

Mr. Liberman interpreted that the "use" of the property is the important factor in zoning legislation, not the time that sales are being made. The intent is that businesses be in and out in six months. As Mr. Horn noted, otherwise, the materials could be left year-round with a business only open for 180 days.

Mr. Compton asked if Mr. Feverston considered the weather this summer to be an extenuating circumstance. Mr. Feverston deferred that judgment of a practical difficulty to Council.

Mr. Compton made a motion to approve the appeal to allow Mr. Bednarczyk to stay in business until November 1, 2010. Dr. Gresham seconded the motion. The motion approving the appeal passed with five ayes. Mr. Compton, Mrs. Kenley, Mr. Singer, Dr. Gresham and Mayor Kingseed voted aye; Mr. Cline and Mr. Beals voted nay. Council asked that staff revisit the regulations for temporary garden centers.

There being no further business, the meeting was adjourned.

Approved: C. Mark Kingseed

Mayor

ATTEST: Debra A. James

Clerk of Council